

**§ 2703.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.**

Members and employees of the Federal Mine Safety and Health Review Commission are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635; the Commission's regulations at 5 CFR part 8401, which supplement the executive branch-wide standards; and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

**§ 2703.2 Designated agency ethics official and alternate designated agency ethics official.**

The Chairman shall appoint an individual to serve as the designated agency ethics official, and an individual to serve in an acting capacity in the absence of the primary designated agency ethics official (alternate designated agency ethics official), to coordinate and manage the Commission's ethics program.

**PART 2704—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN COMMISSION PROCEEDINGS**

**Subpart A—General Provisions**

- Sec.
- 2704.100 Purpose of these rules.
  - 2704.101 Definitions.
  - 2704.102 Applicability.
  - 2704.103 Proceedings covered.
  - 2704.104 Eligibility of applicants.
  - 2704.105 Standards for awards.
  - 2704.106 Allowable fees and expenses.
  - 2704.107 Rulemaking on maximum rates for attorney fees.
  - 2704.108 Awards.
  - 2704.109 Delegations of authority.

**Subpart B—Information Required From Applicants**

- 2704.201 Contents of application—in general.
- 2704.202 Contents of application—where the applicant has prevailed.
- 2704.203 Contents of application—where the Secretary's demand is substantially in excess of the judgment finally obtained and unreasonable.
- 2704.204 Confidential financial information.
- 2704.205 Documentation of fees and expenses.
- 2704.206 When an application may be filed.

**Subpart C—Procedures for Considering Applications**

- 2704.301 Filing and service of documents.
- 2704.302 Answer to application.
- 2704.303 Reply.
- 2704.304 Comments by other parties.
- 2704.305 Settlement.
- 2704.306 Further proceedings on the application.
- 2704.307 Decision of administrative law judge.
- 2704.308 Commission review.
- 2704.309 Judicial review.
- 2704.310 Payment of award.

AUTHORITY: (5 U.S.C. 504(c)(1); Pub. L. 99-80, 99 Stat. 183; Pub. L. 104-121, 110 Stat. 862.

SOURCE: 47 FR 10001, Mar. 9, 1982, unless otherwise noted.

**Subpart A—General Provisions**

**§ 2704.100 Purpose of these rules.**

The Equal Access to Justice Act, 5 U.S.C. 504, provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before this Commission. An eligible party may receive an award when it prevails over the U.S. Department of Labor, Mine Safety and Health Administration ("MSHA"), unless the Secretary of Labor's position in the proceeding was substantially justified or special circumstances make an award unjust. In addition to the foregoing ground of recovery, a non-prevailing eligible party may receive an award if the demand of the Secretary is substantially in excess of the decision of the Commission and unreasonable, unless the applicant party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. The rules in this part describe the parties eligible for each type of award. They also explain how to apply for awards, and the procedures and standards that this Commission will use to make the awards. In addition to the rules in this part, the Commission's general rules of procedure, part 2700 of this chapter, apply where appropriate.

[71 FR 44209, Aug. 4, 2006]